

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Brulte Analyst: Marion Mann DeJong Bill Number: SB 632
Related Bills: See Legislative History Telephone: 845-6979 Amended Date: 06/26/2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Research Cr. Increase Qual. Exp. to 15% and Alt. Incremental Exp. to 90%
of Fed/Long-Term Caregivers Cr/Grad Education Excl/NOL to 65% & 10-Year

SUMMARY OF BILL

This bill would:

1. Modify the research credit to increase the state credit for "qualified research expenses" from 12% to 15% and increase the state alternative incremental research expense credit to 90% of the prior federal amount, instead of the existing 80%. See "Research Credit" on page 2.
2. Allow taxpayers who are eligible caregivers a \$500 non-refundable credit for each applicable individual to whom they provide long-term care. An applicable individual may be the taxpayer, spouse of the taxpayer or a qualifying (under this bill) dependent who has been certified to have long-term care needs. See "Long-term Caregivers Credit" on page 5.
3. Allow an employee to exclude from gross income the amount that an employer pays or incurs, up to \$5,250, for the employee to take graduate level courses in pursuit of a law, business, medical or another advanced academic or professional degree beginning on or after January 1, 2000. See "Graduate Education Exclusion" on page 9.
4. This bill would incrementally increase the general net operating loss (NOL) deduction carry forward amount under both the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL) from 50% to 65% and would increase the NOL carryforward period from five years to 10 years. See "Net Operating Loss" on page 11.

This bill also would provide a rural investment sales tax exemption, modify the vehicle licensing fee (VLF) rebate proposed by AB 858, and make an appropriation of \$2 billion for the VLF rebate. These provisions are not discussed in this analysis as they do not impact the programs administered by the department.

SUMMARY OF AMENDMENT

The June 26, 2000, amendment deleted the prior provisions of the bill (VLF) and inserted the provisions summarized above.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald H. Goldberg

7/13/00

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately upon enactment and would apply to taxable or years beginning on or after January 1, 2000.

SUMMARY OF REVENUE IMPACT

Provision of Bill	Fiscal Years (\$ in millions)		
	2000-01	2001-02	2002-03
1. Research Credit	-\$20	-\$33	-\$40
2. Long-term Caregivers Credit	-\$48	-\$41	-\$45
3. Graduate Education Exclusion	-\$9	-\$10	-\$10
4. Net Operating Loss	-\$1	-\$5	-\$17*
TOTAL	-\$78	-\$89	-\$112

* Revenue impacts increase significantly in future years.

BOARD POSITION

Pending.

1. RESEARCH CREDIT

SUMMARY

Under the PITL and the B&CTL, this bill would modify the research credit to increase the state credit for "qualified research expenses" from 12% to 15% and increase the state alternative incremental research expense credit to 90% of the prior federal amount, instead of the existing 80%.

This provision would be known as the Nakano-Cunneen Research and Development Act of 2000.

LEGISLATIVE HISTORY

AB 465 (2000) would increase the state alternative incremental research expense credit to 85% of the prior federal amount, instead of the existing 80%. AB 465 was enrolled on June 22, 2000.

AB 1953 (2000), AB 2592 (2000), SB 1495 (2000) and SB 2200 (2000) would increase the qualified research expense credit percentage and would decrease the minimum threshold for computing the credit. AB 1953 was held in Assembly Appropriations Committee, AB 2592 is in the Assembly Revenue and Taxation Committee, and SB 1495 and SB 2200 are in the Senate Revenue and Taxation Committee.

SB 705 (Stats. 1999, Ch. 77) increased the state credit for "qualified research expense" from 11% to 12%.

AB 68 (1999) would have increased the qualified research expense credit percentage and would have decreased the minimum threshold. AB 68 failed to pass out of the first house by January 31 of the second year of the session.

SPECIFIC FINDINGS

Existing federal law provides for a research tax credit equal to 20% of the excess of a taxpayer's "qualified research expenses" for a taxable year over its base amount for that year.

A research tax credit also is allowed for corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities. This component of the research credit computation is commonly referred to as the "university basic research" credit.

The qualified research expense component of the credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding taxable years. If a taxpayer both incurred qualified research expenditures and realized gross receipts during each of at least three taxable years from 1984 through 1988, then its "fixed-base percentage" is the percentage that its total qualified research expenditures for the 1984-1988 period is of its total gross receipts for that period (subject to a maximum percentage of 16%). All other taxpayers, including any firm that had both gross receipts and qualified research expenses in the first taxable year beginning after 1983 (so-called "start-up firms"), are assigned a fixed-base percentage of 3%. In computing the credit, a taxpayer's base amount may not be less than 50% of its current-year qualified research expenditures.

Taxpayers may elect to compute the qualified research expense component of the credit using the alternative incremental credit. The alternative incremental credit is equal to the sum of an increasing percentage of the amount of qualified research expenses in excess of a percentage of the base amount (the average gross receipts for the last four tax years) as follows:

- ?? 2.65% of qualified research expenses in excess of 1% of base amount but not more than 1.5% of the base amount.
- ?? 3.2% of qualified research expenses in excess of 1.5% of base amount but not more than 2% of the base amount.
- ?? 3.75% of qualified research expenses in excess of 2% of base amount.¹

Expenditures attributable to research conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities and is not available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

Existing state law conforms with specific modifications to the federal research credit, including modifications to the credit percentage amounts. The credit percentage is 12% for "qualified research." The alternative incremental research expense credit is 80% of the prior federal percentages (1.65%, 2.2% and 2.75%) or 1.32%, 1.76% and 2.20%, respectively.

¹ The federal rates were increased for taxable years beginning on or after June 30, 1999. The previous rates were 1.65%, 2.2% and 2.75%, respectively.

This bill would increase the state credit for "qualified research expenses" from 12% to 15%.

This bill also would increase the state alternative incremental research expense credit to 90% of the prior federal credit amount, instead of the existing 80%. Thus, the prior federal percentages of 1.65%, 2.2% and 2.75% would be replaced with 1.49%, 1.98% and 2.48%, respectively.

Implementation Considerations

Implementing this provision would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

FISCAL IMPACT

Departmental Costs

This provision would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses are projected as shown below:

Fiscal Year Revenue Loss \$ Millions			
	2000-01	2001-02	2002-03
Basic	-\$16	-\$25	-\$31
AIRC	-\$4	-\$8	-\$9
Total	-\$20	-\$33	-\$40

Tax Revenue Discussion

The research credits generated under current and proposed laws were simulated for each corporation in a sample of the 50 corporations with the largest research and development expenses. These simulations take into account specific micro-economic data for each corporation such as gross receipts, wage, property, and sales factors, net income, historical research expenditures, and detailed tax and financial data. The results of the simulations are weighted statistically to the population level. The revenue losses are estimated as the differences between the taxes simulated under current and proposed laws. The revenue impact under PIT was assumed to be equal to 4% of the B&CT impact.

The DOF forecast of corporate profits was used to extrapolate the estimates to future years.

2. Long-term Caregivers Credit

SUMMARY

This bill would allow taxpayers who are eligible caregivers a \$500 non-refundable credit for each applicable individual to whom they provide long-term care. An applicable individual may be the taxpayer, spouse of the taxpayer or a qualifying (under this bill) dependent who has been certified to have long-term care needs.

This provision would be known as the Correa Long-Term Care Act of 2000.

LEGISLATIVE HISTORY

AB 2871 (2000) is almost identical to this provision of the bill except it contained an income limitation and a sunset date. AB 2871 was enrolled on June 22, 2000.

AB 2268 (2000), as introduced, was identical to this provision of the bill. AB 2268 was held in the Assembly Appropriations Committee.

AB 2096 (2000) would provide for a \$500 credit to taxpayers who provide long-term care to elderly individuals who reside with the taxpayer. AB 2096 is in the Assembly Revenue and Taxation Committee.

AB 2281 (2000) would allow 25% of the cost of long-term insurance as a deduction starting in the 2002 tax year and incrementally increasing to 100% beginning in the 2007 tax year. AB 2281 is in the Assembly Revenue and Taxation Committee.

SPECIFIC FINDINGS

Under **federal law**, long-term care services are defined as necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitative services and maintenance or personal care services provided to a chronically ill individual. A chronically ill individual is generally defined as an individual certified annually by a licensed health care practitioner as being unable to perform (without substantial assistance) at least two of the following activities of daily living (ADLs): eating, toileting, transferring, bathing, dressing and continence or requires substantial supervision to protect such individual from health and safety concerns due to severe cognitive impairment.

Substantial assistance would include both hands-on assistance (the physical assistance of another person without which the individual would be unable to perform the ADL) and stand-by assistance (the presence of another person within arm's reach of the individual that is necessary to prevent, by physical intervention, injury to the individual when performing the ADL).

Current **federal law** specifically allows a deduction for medical expenses for the unreimbursed expenses for qualified long-term care services provided to the taxpayer, the taxpayer's spouse or the taxpayer's dependents (subject to the present-law floor of 7.5% of adjusted gross income). Amounts received under a long-term care insurance contract (regardless of whether the contract reimburses expenses or pays benefits on a per diem or other periodic basis) are treated as reimbursement for expenses actually incurred for medical care.

Long-term care insurance premiums, like medical care insurance premiums, are explicitly treated as medical expenses and are deductible on a graduated scale based on the individual's age before the close of the taxable year.

<u>Age of Individual</u>	<u>Maximum Deduction</u>
40 or less	\$200
More than 40 but less than 50	375
More than 50 but less than 60	750
More than 60 but less than 70	2,000
More than 70	2,500

Current law also excludes from gross income of the employee any employer contributions to accident and health plans, including contributions to cafeteria plans or "flexible spending arrangements," as defined. In addition, current law excludes from gross income the receipt of benefits from long-term care insurance.

Current **federal law** imposes an information reporting requirement on insurance companies paying long-term care benefits. In addition to the normal reporting requirements (identification of the recipients and amounts paid out by the company), the insurance company also must include the type of policy issued to the recipient. A penalty excise tax may be imposed on issuers of long-term care insurance companies that fail to satisfy the above requirements.

Current **California law** conforms to federal tax provisions related to long-term care.

Federal law allows a \$2,750 (for 1999) exemption (deduction from income) for each dependent of the taxpayer. To qualify as a dependent, an individual must:

- (1) be a specified relative or member of the taxpayer's household;
- (2) be a citizen or resident of the U.S. or resident of Canada or Mexico;
- (3) not be required to file a joint tax return with his or her spouse;
- (4) have gross income below the dependent exemption amount (\$2,750 in 1999) (the gross income threshold test) if not the taxpayer's child; and
- (5) generally receives over half of his or her support from the taxpayer (the support test).

California law conforms to the federal definition of a dependent (items 1 through 5 above.) However, in lieu of a \$2,750 deduction from income, the state allows a non-refundable credit, \$227 for 1999, that is applied against the taxpayer's tax liability.

This bill would allow a \$500 non-refundable long-term caregiver credit for each applicable individual to whom the taxpayer provides long-term care. An applicable individual may be the taxpayer, spouse of the taxpayer or a qualifying (under this bill) dependent who has been certified to have long-term care needs.

For purposes of this credit, **this bill** would broaden the definition of a dependent in two ways. First, the gross income threshold test would increase to the sum of the federal personal exemption amount, the federal standard deduction, and the additional federal deduction for the elderly and blind (if applicable). In 1999, the gross income threshold would generally be \$7,050 for a non-elderly dependent and \$8,100 for an elderly or blind dependent. The threshold amounts are calculated using the federal amounts.

Second, the support test would be deemed to be met if the taxpayer and an individual with long-term care needs reside together for a specified period. The length of the specified period would depend on the relationship between the taxpayer and the individual with long-term care needs. The specified period would be over half the year if the individual is the ancestor or descendant of the taxpayer or the taxpayer's spouse. Otherwise, the specified period would be the full year. If more than one taxpayer is an eligible caregiver for the same person with long-term care needs, then those taxpayers generally must designate the taxpayer who would claim the credit. If the taxpayers fail to do so or if they are married to each other and filing separate returns, then only the taxpayer with the higher modified federal AGI would be eligible to claim the credit.

Under **this bill**, an individual age six or older would be considered to have long-term care needs if he or she were certified by a licensed physician (prior to the filing of a return claiming the credit) as being unable for at least six months to perform at least three ADLs without substantial assistance from another individual, due to a loss of functional capacity (including individuals born with a condition that is comparable to a loss of functional capacity).

A child between the ages of two and six would be considered to have long-term care needs if he or she were certified by a licensed physician as requiring substantial assistance for at least six months with at least two of the following activities: eating, transferring and mobility.

A child under the age of two would be considered to have long-term care needs if he or she were certified by a licensed physician as requiring for at least six months specific durable medical equipment (for example, a respirator) by reason of a severe health condition or requiring a skilled practitioner trained to address the child's condition when the parents are absent.

As under the present-law rules relating to long-term care, ADLs would be eating, toileting, transferring, bathing, dressing and continence.

As an alternative to the three ADL test described above, an individual would be considered to have long-term care needs if he or she were certified by a licensed physician as (a) requiring substantial supervision for at least six months to be protected from threats to health and safety due to severe cognitive impairment and (b) being unable for at least six months to perform at least one or more ADLs or to engage in age appropriate activities as determined under regulations prescribed by the Franchise Tax Board (FTB) in consultation with the Secretary of Health and Welfare Agency.

This bill would provide that a portion of the period certified by the physician would have to occur within the taxable year for which the credit is claimed. Individuals would have to be certified by a physician within 39½ months of the due date of the return (without extension) or such other period as the FTB prescribes.

This bill would require the taxpayer to provide a correct taxpayer identification number for the individual with long-term care needs for which the credit is to be claimed as well as a correct physician identification number for the certifying physician on the tax return. Failure to provide correct taxpayer and physician identification numbers would be subject to the mathematical error rule.

Under that rule, the FTB may summarily deny the credit and assess additional tax due without sending the individual a notice of proposed assessment. Further, the taxpayer could be required to provide the physician certification upon the FTB's request.

Credit amounts in excess of "net tax" would be carried forward indefinitely.

Policy Considerations

This provision would raise the following policy considerations:

- ?? This credit would not be limited to taxpayers or applicable individuals who reside in California.
- ?? This bill would not actually require the taxpayer to provide long-term care to an applicable individual. This bill would only require the applicable individual to be certified as needing long-term care and that the applicable individual be the taxpayer, taxpayer's spouse, or a qualifying dependent of the taxpayer.
- ?? This bill would require that any FTB regulations be adopted in consultation with the Health and Welfare Agency Secretary governing physician certification based on one or more ADL or inability to perform age appropriate activity. Perhaps the Health and Welfare Agency would be the more appropriate agency to adopt such regulations, since the FTB would rely solely on the physician's certification.

Implementation Considerations

Implementing this provision would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses under the PITL for a stand-alone state credit are estimated to be \$48 million for fiscal year 2000/2001, \$41 million for fiscal year 2001/2002 and \$45 million for fiscal year 2002/2003.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Tax Revenue Discussion

The impact of this bill would depend upon the number of taxpayers eligible to claim the credit (estimated to be 158,000), the average credit claimed and the average credit applied against available tax liabilities.

This estimate is based on a proration of the estimate calculated by the U.S. Treasury for a similar proposed federal credit.

Starting with the federal impact on liabilities:

1. The California eligible population is assumed to be 11% of the nation.
2. Because California tax rates and proposed credit are lower than federal tax rates and \$1,000 proposed federal credit, it is assumed that the credit absorption rate would be 75% of the federal (a greater portion of the calculated credit would not be applied because of insufficient tax liabilities).
3. Because of the absence of income caps, it is assumed that the eligible population would be 7.9% greater than if the caps proposed in federal legislation were applied. This assumption is based on the department's Personal Income Tax model for taxpayers above the federal income caps.
4. For the additional 7.9%, it is assumed that each taxpayer would be able to absorb the full \$500 credit.

3. Graduate Education Exclusion

SUMMARY

Under the PITL, this bill would allow an employee to exclude from gross income the amount that an employer pays or incurs, up to \$5,250, for the employee to take graduate level courses in pursuit of a law, business, medical or other advanced academic or professional degree. This provision applies only to any course or education taken at the graduate level beginning on or after January 1, 2000.

This provision would be known as the Elaine Alquist Graduate Student Exemption Act of 2000.

LEGISLATIVE HISTORY

AB 1360 (1997/1998) would have retroactively allowed an employee to exclude from gross income the amount, not to exceed \$5,250 per year, that an employer paid or incurred for the employee taking graduate level courses other than law, medicine, veterinary medicine or business beginning June 30, 1996, and before January 1, 1997, and for any graduate level courses on or after January 1, 1997. AB 1360 failed to pass out of the first house by January 31 of the second year of the session.

AB 1747 (1997/1998) would have allowed an exclusion up to \$5,250 annually for amounts paid by an employer for graduate level courses beginning on or after June 30, 1998. AB 1747 was held in the Assembly Appropriations Committee.

SB 38 (Ch. 954, Stats. 1996) repealed the state educational assistance federal conformity provision and adopted a permanent state provision mirroring federal law by providing that expenses paid by an employer for an employee for graduate courses are not excluded from gross income.

BACKGROUND

Federal law previously provided an exclusion from gross income, to which state law conformed, not to exceed \$5,250 per year for the amount paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee for graduate and undergraduate courses taken before December 31, 1994. The federal and state provisions were not operative for taxable years beginning after December 31, 1994.

In August 1996, federal law, to which state law automatically conformed, retroactively extended the exclusion from gross income of both undergraduate and graduate courses taken before July 1, 1996, and of only undergraduate courses taken before July 1, 1997.

The following month, in September, 1996 (SB 38), the state repealed its educational assistance conformity provision and adopted a permanent state provision, which mirrored federal law by providing that expenses for graduate courses are not excluded from gross income.

The federal Taxpayer Relief Act of 1997 extended the gross income exclusion only for undergraduate courses that begin before June 1, 2000.

SPECIFIC FINDINGS

Current federal and state law exclude from gross income the amount, not to exceed \$5,250 per year, paid or incurred by an employer for educational assistance (including tuition, fees, books, supplies, equipment and other similar expenses) to an employee taking undergraduate courses. For purposes of the exclusion, educational assistance does not include courses taken at the graduate level leading to a law, business, medical or another advanced academic or professional degree beginning after June 30, 1996.

This bill would allow an employee to exclude from gross income, with respect to any course or education taken at the graduate level beginning on or after January 1, 2000, the amount that an employer pays or incurs, up to \$5,250, for the employee to take graduate level courses in pursuit of a law, business, medical or other advanced academic or professional.

Implementation Considerations

Implementing this provision would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

FISCAL IMPACT

Departmental Costs

This provision would not significantly impact the department's costs.

Tax Revenue Estimate

The revenue losses from this provision are estimated to be \$9 million for fiscal year 2000/2001 and \$10 million annually for fiscal years 2001/2002 and 2002/2003.

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Estimate Discussion

The exclusion for employer-reimbursed educational expenses expired for graduate level courses on June 30, 1996. This bill reinstates the graduate level exclusion for courses beginning on or after January 1, 2000. The 1998 California Statistical Abstract reports approximately 197,000 graduate students in California in 1996. This number was grown at a rate of 2% per year (213,000 students in 2000). The Department of Education report, Student Financing of Graduate and Post-Professional Education 1995/1996, indicates that 20.5% of graduate and professional students receive assistance from their employer. This study also indicates the average level of employer assistance was \$2,821 for the 1995/1996 school year. The exclusion is capped at \$5,250, so it was assumed that approximately 5% of employer expenditures would exceed the exemption cap. It was also assumed an average tax rate of 8% on the excluded income. The resulting revenue loss is \$9 million for 2000/2001 and \$10 million annually for 2001/2002 and 2002/2003.

4. Net Operating Loss

SUMMARY

This bill would incrementally increase the general net operating loss (NOL) deduction carryforward amount under both the PITL and the B&CTL from 50% to 65% and would increase the NOL carryforward period from five years to 10 years. The bill also would retain current preferential NOL treatment for new and small businesses.

This provision would be known as the Lempert Net Operating Loss Act of 2000.

LEGISLATIVE HISTORY

AB 724 (1997/1998) would have incrementally increased the amount of NOL carryforward over five years until California law conformed to federal law (100% carryover), except California law would have continued to not allow carrybacks. AB 724 failed to pass out of the first house by January 31 of the second year of the session.

SPECIFIC FINDINGS

Federal law provides that an NOL can be carried back two years and forward 20 years. An NOL is defined as the excess of allowable deductions over gross income computed under the law in effect for the loss year.

Existing state law conforms to the federal computation of the NOL. California does not allow NOL carrybacks. Depending on the type of taxpayer or amount of a taxpayer's income, the amount of the NOL that is eligible to be carried forward and the number of years it can be carried forward will vary.

Existing state law provides for seven different types of NOLs:

Type of NOL	NOL % Allowed to be Carried Over	Carryover Period
General NOL	50%	5 Years
New Business Year 1	100%	8 Years
Year 2	100%	7 Years
Year 3	100%	6 Years
Eligible Small Business	100%	5 Years
Specified Disaster Loss	100%	5 Years
	50%	10 Years
TTA, LAMBRA & EZ	100%	15 Years

Generally, for most taxpayers, 50% of the computed NOL may be carried forward for five years. Special NOL treatment as stated in the above chart is provided for the following taxpayers:

?? New businesses that are in a trade or business activity that first commenced in California after January 1, 1994. "New business" special NOL treatment also applies to taxpayers engaged in certain biopharmaceutical activities for taxable or income years beginning on or after January 1, 1997, that have not received approval for any product from the U.S. Food and Drug Administration.

?? Eligible small businesses that are in a trade or business with gross receipts, less returns and allowances, of less than \$1 million during the taxable or income year.

?? Taxpayers that suffer a casualty loss in an area declared a disaster area by the Legislature may carry over 100% of an NOL for five years and 50% of any NOL remaining after the first five years for an additional 10 years.

?? Taxpayers that operate a business in a Local Agency Military Base Recovery Area, a Targeted Tax Area or an Enterprise Zone. However, NOLs generated in these incentive areas may offset only income generated in the incentive areas, and the taxpayer may claim an NOL from only one incentive area in any year.

Special rules apply for taxpayers that have different types of NOLs generated in the same year. Generally, taxpayers operating in various tax incentive zones or within and outside tax incentive zones must allocate their overall loss between their various zone and non-zone activities. The deduction for such a taxpayer is limited to the NOL carryforward from one particular zone loss to the exclusion of all other losses or to a carryforward of the entire loss under the general NOL rules.

This bill would incrementally increase the current 50% carryforward of the NOL deduction as follows:

- ?? For taxable and income years beginning on or after January 1, 2000, and before January 1, 2002, 55% of the NOL may be carried forward.
- ?? For taxable and income years beginning on or after January 1, 2002, and before January 1, 2004, 60% of the NOL may be carried forward.
- ?? For taxable and income years beginning on or after January 1, 2004, 65% of the NOL may be carried forward.

This bill also would increase the NOL carryforward period from the current five years to 10 years for all NOLs generated for taxable and income years beginning on or after January 1, 2000.

Also, **this bill** would retain preferential NOL treatment for new and small businesses by also increasing the percentage of NOL carryforward to 55%, 60%, and finally 65% (following the same date increases as above) for the NOL amount that exceeds the net "new business" or "eligible small business" NOL. This bill also increases the carryforward for "new businesses" from eight years to 10 years and for "eligible small businesses" from five years to 10 years.

Implementation Considerations

Implementing this provision would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

Technical Considerations

The reference to "subdivision (d)" in clause (ii) of subparagraph (B) of paragraph (2) of subdivision (b) of section 24416 (page 33, line 27 of the bill) is incorrect and should be replaced with "subdivision (e)."

FISCAL IMPACT

Departmental Costs

This provision would not significantly impact the department's costs.

Tax Revenue Estimate

Revenue losses under the PITL and the B&CTL are estimated to be:

Fiscal Year Cash Flow Impact Effective 1/1/00 Enactment Assumed After June 30, 2000 \$ Millions									
2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
-\$1	-\$5	-\$17	-\$33	-\$50	-\$70	-\$96	-\$127	-\$156	-\$190

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses would depend on the amount of additional NOL deductions that can be applied against taxable income.

The above estimates are based on prior year tax return data, the total amount of operating losses reported and the amounts that were applied under current law to reduce tax liabilities. These data were then simulated to determine the amount of additional losses that could be applied under the higher phase-in limits.